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July 6, 2001
BY HAND

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: CS Docket No. 00-96 -- Ex Parte Filing

Dear Ms. Salas:

On behalf of the National Association of Broadcasters ("NAB") and the Association of Local Television Stations ("ALTV"), this letter is intended to rebut a variety of troubling contentions made by DirecTV in its June 25, 2001 *ex parte* submission and to provide additional information requested by the staff during our recent visit.

1. DirecTV's continuing effort to have the Commission rewrite the Act to require stations to deliver perfect signals. DirecTV continues to press its campaign to force local stations to provide not a "good quality signal," as the Satellite Home Viewer Improvement Act expressly specifies, but instead an essentially *perfect* signal. Among other things, DirecTV seeks to force stations to provide a signal with the staggeringly high signal-to-noise ratio of at least 60 dB. DirecTV 6/25/01 *Ex Parte* Letter at 1.

Congress obviously knew how to require a "perfect quality" signal, or to indicate that it intended to impose a new, super-demanding standard on broadcasters seeking carriage by DBS firms. Far from insisting that stations provide flawless signals, however, Congress carefully selected language -- "good quality signal" -- copied from the 1992 Cable Act, which requires stations seeking carriage to deliver a "signal of good quality." See 47 U.S.C. § 534(h)(1)(B)(iii) (Cable Act); 47 C.F.R. § 76.55(c)(3) (implementing regulations). Congress not only reproduced the operative words from the Cable Act in the SHVIA, but expressly confirmed in the SHVIA Conference Report that the new Act would "place satellite carrier[s] in a comparable position to cable systems." SHVIA Conference Report, 145 Cong. Rec. H11795 (daily ed. Nov. 9, 1999) (emphasis added).

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In short, DirecTV's insistence that TV stations provide a signal of vastly higher quality than they are required to provide to cable systems is inconsistent both with the language of the SHVIA and with its goal of creating a regulatory regime parallel to that applicable to cable. The Commission therefore got it exactly right in applying the same "good quality signal" standards to satellite that it has applied to cable, and in rejecting DirecTV's demand that the Commission impose a far more "exacting" standard on stations delivering signals to DBS firms. *Report & Order*, ¶ 63.

In its latest *ex parte* filing, DirecTV urges the Commission to override the plain language and intent of the SHVIA by arguing -- without citation either to the Act or its legislative history -- that Congress intended stations to provide perfect-quality signals because DBS supposedly provides much higher quality service than cable. DirecTV 6/25/01 *Ex Parte* Letter at 2. Leaving aside the fact that the *statutory language* chosen by Congress reflects a decision to apply the *same* "good quality" standard to both cable and satellite, DirecTV's self-serving claims are rebutted by common sense: many cable systems (like DBS firms) now provide digital service, but that has *not* resulted in any change in the quality of the signal that stations are required to provide to cable headends. As before, stations are still required to provide cable systems with a "good quality," but not a flawless, signal to cable systems.¹ And, as the Commission correctly observed in this proceeding, "[t]he standards that have been applied to cable operators have functioned well since the inception of the statutory cable carriage requirements seven years ago." *Report & Order*, ¶ 64.

Strikingly, DirecTV now concedes what broadcasters have repeatedly explained: that it would be *impossible* for stations to achieve, over the air, the same quality of signal that can be delivered via a costly fiber-optic cable. DirecTV says, for example, that "a number of" TV stations "can come close" to achieving a 67 dB signal-to-noise ratio. DirecTV 6/25/01 *Ex Parte* Letter at 1. By "coming close," DirecTV means achieving a signal-to-noise ratio of "approximately 60 dB" -- and says that even achieving that signal-to-noise ratio with an over-the-air signal will, in many cases, require the purchase of additional noise reduction equipment. *Id.* In other words, DirecTV itself effectively admits that the only way to achieve a 67 dB signal-to-noise ratio is by arranging for a fiber-optic TV1 line from the station's studio to DirecTV's local receive facility. Based on this recognition, DirecTV has therefore slightly reduced its demands to now call for a 60 dB signal-to-noise ratio. *Id.* at 2.

But while slightly lower than the 67 dB signal-to-noise ratio that DirecTV has demanded up to now, however, a 60 dB signal-to-noise would still force stations to deliver to DBS firms a virtually perfect signal, rather than the good quality signal that the SHVIA requires stations to provide to satellite carriers and that the Cable Act requires stations to provide to cable systems (including cable systems that provide digital service). There is simply no statutory or policy basis for imposing such a burden on stations, which

¹ Of course, the Commission *has* promulgated a different good quality signal standard for delivery of *digital* signals to cable systems. The issue here, however, is the standard for delivery of *analog* signals to both cable systems and satellite carriers.

would simply place an unfair roadblock in the path of stations entitled to carriage by DBS firms.

DirecTV argues that a good quality (but not perfect) signal may require greater bandwidth than a flawless signal transmitted over a fiber-optic TV1 circuit. *Id.* at 3. But that argument proves nothing. *First*, DirecTV's claim that a less-perfect signal will "consume 25% more bandwidth" is based on a comparison to a signal with a 67 db signal-to-noise ratio -- a standard of perfection that even DirecTV has abandoned, as just discussed. *Second*, a DBS firm can set a cap on the number of bits that will be allocated to any one channel, thus ensuring that there will be no effect on any other channel through the statistical multiplexing process. *Third*, every TV station wants its signal to be delivered in a high-quality fashion on any retransmission system (whether cable, satellite, or otherwise), and has a natural business incentive to work with the cable or satellite firm to make sure that is the case. *Fourth*, as discussed below, DirecTV expressly acknowledges in its latest *ex parte* filing that, in many cases, it is perfectly capable of taking the necessary steps to process off-air signals to meet its technical standards (to the extent DirecTV wishes to work with a nearly perfect signal, rather than the good quality signal that Congress required). That admission parallels the similar acknowledgement by EchoStar in its January 19, 2001 filing, which is discussed in NAB's prior filings in opposition to DirecTV's petition.

2. DirecTV's effort to force stations to pay for the costs of DirecTV's own receive facility. The Act could scarcely be more clear that a station's obligation is *only* to deliver a good quality signal, and *not* to build (or rent) a local receive facility for a DBS operator. 47 U.S.C. § 338(b)(1). Yet DirecTV now seeks to force stations to do just that -- namely, to pay for the rental of roof space. DirecTV 6/25/01 *Ex Parte* Letter at 5. But the roof space on which DirecTV has erected (or plans to erect) antennas *is* the relevant part of its local receive facility; and all that a station is required to do is to deliver a good quality signal to that location. DirecTV's demand that stations pay DirecTV's own real estate costs for creation of a local receive facility is thus inconsistent with the division of responsibility established by Congress in the SHVIA.

3. DirecTV's effort to force stations to pay for the costs of making a "good quality" signal even better. DirecTV also suggests that it should be able to coerce stations to pay for unidentified technical equipment (such as "commercially available noise reduction equipment") to improve the quality of a signal received over the air. DirecTV 6/25/01 *Ex Parte* Letter at 1. But DirecTV's bid fails for three reasons. *First*, stations have no obligation to pay for the costs of converting a "good quality signal" to a signal of a higher quality desired by DirecTV. *Second*, even if (contrary to fact) DirecTV had the right to make such a demand, DirecTV would have no basis for forcing stations to pay costs that it is already incurring as a result of its decision to maintain off-air rooftop antennas and other equipment to provide "a backup off-air feed for all retransmission consent stations in case of a failure on the TV-1 circuit." *Id.* *Third*, DirecTV does not specify any particular "commercial noise reduction equipment" that would be acceptable to it. Even if the Commission had the power to require stations to deliver perfect -- rather than good quality -- signals, it would be an invitation for abuse to

allow DirecTV to be allowed to specify, at its whim, particular types of equipment that a station must purchase to satisfy DirecTV's demands.

4. DirecTV's position about carriage of VBI data. As we told the staff during our recent meeting, DirecTV has taken the position that it does not carry data on Line 22 of the Vertical Blanking Interval, called Automated Measurement of Lineups ("AMOL") data, that is designed to enable Nielsen to produce program ratings. *See Ex Parte* Supplement to Reply of DirecTV, Inc. at 4 (filed April 30, 2001). DirecTV does not and could not contend that AMOL data is not program-related. Nor could it contend that, if permitted a reasonable transition period, it would be particularly costly to modify *future* set-top boxes to enable it to carry AMOL data on Line 22 of the VBI. Accordingly, the Commission should take the sensible middle course recommended by NAB and other commenters, namely requiring satellite carriers to transmit additional types of program-related data in the VBI to purchasers of new set-top boxes, following a transition period of several months.

5. TV1 standard. To provide the Commission with additional information about the GR-338-CORE, TV-1 standard that DirecTV advocates, we have obtained a copy of the technical papers prepared by Telcordia Technologies (formerly Bellcore) on that topic. As these documents reflect, that standard contains technical specifications for a tariffed video transmission service offered by Local Exchange Carriers ("LECs"). We will provide those papers under separate cover.

* * * * *

The Commission was right to reject DirecTV's demand that the Commission vary from the "good quality signal" standard adopted by Congress, and DirecTV is wrong in asking the Commission to alter the Act to require an essentially perfect signal. The Commission should therefore reject DirecTV's petition for reconsideration on this issue.

As always, we stand ready to answer any questions the Commission or its staff might have. Thank you for your attention to this matter.

Very truly yours,



Thomas P. Olson

cc: Chairman Michael K. Powell
Commissioner Gloria Tristani
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin

W. Kenneth Ferree, Cable Services Bureau
Eloise Gore, Cable Services Bureau